

ASSEMBLY BILL

No. 561

Introduced by Assembly Member Ting

February 20, 2013

An act to amend Sections 11911 and 11925 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 561, as introduced, Ting. Taxation: documentary transfer tax.

Existing law authorizes counties and cities and counties to impose a documentary transfer tax at a specified rate upon deeds, instruments, or writings by which any lands, tenements, or other realty sold are transferred.

This bill would provide that “realty sold” for purposes of the imposition of a documentary transfer tax includes any acquisition or transfer of ownership interests in a legal entity that would constitute a change in ownerships of that legal entity’s real property, as specified.

Existing law prohibits the imposition of the documentary transfer tax, in the case of any realty held by a partnership, upon any transfer of an interest in a partnership under specified conditions. Existing law also prohibits more than one documentary tax from being imposed by reason of a specified termination of any partnership or other entity treated as a partnership, and any transfer with respect to the realty held by a partnership or other entity treated as a partnership at the time of the termination.

This bill would eliminate those prohibitions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 11911 of the Revenue and Taxation Code is amended to read:

11911. (a) The board of supervisors of any county or city and county, by an ordinance adopted pursuant to this part, may impose, on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the county shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his *or her* or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100) a tax at the rate of fifty-five cents (\$0.55) for each five hundred dollars (\$500) or fractional part thereof.

(b) The legislative body of any city ~~which~~ *that* is within a county ~~which~~ *that* has imposed a tax pursuant to subdivision (a) may, by an ordinance adopted pursuant to this part, impose, on each deed, instrument, or writing by which any lands, tenements, or other realty sold within the city shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his *or her* or their direction, when the consideration or value of the interest or property conveyed (exclusive of the value of any lien or encumbrance remaining thereon at the time of sale) exceeds one hundred dollars (\$100), a tax at the rate of one-half the amount specified in subdivision (a) for each five hundred dollars (\$500) or fractional part thereof.

(c) A credit shall be allowed against the tax imposed by a county ordinance pursuant to subdivision (a) for the amount of any tax due to any city by reason of an ordinance adopted pursuant to subdivision (b). No credit shall be allowed against any county tax for a city tax ~~which~~ *that* is not in conformity with this part.

(d) *For purposes of this section, "realty sold" includes any acquisition or transfer of ownership interests in a legal entity that would constitute a change in ownership of that legal entity's real property under Section 64.*

SEC. 2. Section 11925 of the Revenue and Taxation Code is amended to read:

1 ~~11925. (a) In the case of any realty held by a partnership or~~
2 ~~other entity treated as a partnership for federal income tax purposes;~~
3 ~~no levy shall be imposed pursuant to this part by reason of any~~
4 ~~transfer of an interest in the partnership or other entity or otherwise,~~
5 ~~if both of the following occur:~~

6 ~~(1) The partnership or other entity treated as a partnership is~~
7 ~~considered a continuing partnership within the meaning of Section~~
8 ~~708 of the Internal Revenue Code of 1986.~~

9 ~~(2) The continuing partnership or other entity treated as a~~
10 ~~partnership continues to hold the realty concerned.~~

11 ~~(b) If there is a termination of any partnership or other entity~~
12 ~~treated as a partnership for federal income tax purposes, within~~
13 ~~the meaning of Section 708 of the Internal Revenue Code of 1986,~~
14 ~~for purposes of this part, the partnership or other entity shall be~~
15 ~~treated as having executed an instrument whereby there was~~
16 ~~conveyed, for fair market value (exclusive of the value of any lien~~
17 ~~or encumbrance remaining thereon), all realty held by the~~
18 ~~partnership or other entity at the time of the termination.~~

19 ~~(c) Not more than one tax shall be imposed pursuant to this part~~
20 ~~by a county, city and county or city by reason of a termination~~
21 ~~described in subdivision (b), and any transfer pursuant thereto,~~
22 ~~with respect to the realty held by a partnership or other entity~~
23 ~~treated as a partnership at the time of the termination.~~

24 ~~(d) No~~

25 ~~11925. No~~ levy shall be imposed pursuant to this part by reason
26 of any transfer between an individual or individuals and a legal
27 entity or between legal entities that results solely in a change in
28 the method of holding title to the realty and in which proportional
29 ownership interests in the realty, whether represented by stock,
30 membership interest, partnership interest, cotenancy interest, or
31 otherwise, directly or indirectly, remain the same immediately
32 after the transfer.